

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

BLUE HEN HOTEL, LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.05-221-JJF
	:	
CHARLES P. ARENA,	:	
	:	
Defendant.	:	

**ORDER GRANTING DEFENDANT'S MOTION  
TO DISMISS PURSUANT TO FED.R.CIV.P. 12(b)(6)**

The Court having considered Defendant's Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(6), and the briefs filed by the parties in connection therewith,

**IT IS HEREBY ORDERED:**

1. Count I of the Complaint is dismissed with prejudice with respect to alleged liability resulting from alleged failure to pay second tier subcontractor Energy Products & Service Co., and third tier subcontractor Diversified Construction Staffing, Inc.
2. Count II of the Complaint is dismissed with prejudice.

\_\_\_\_\_  
United States District Court Judge

Dated: \_\_\_\_\_